

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11-cv-231-RJC**

TERRANCE L. JAMES-BEY,)	
)	
Petitioner,)	
)	
Vs.)	<u>ORDER</u>
)	
STATE OF NORTH CAROLINA,)	
)	
Respondent.)	
)	

THIS MATTER is before the Court on a Motion for Reconsideration and Motion for Evidentiary Hearing by Petitioner (Doc. No. 5). The Court construes the Motion for Reconsideration as a motion to alter or amend the judgment under Rule 59(e) of the Federal Rules of Civil Procedure.

With regard to motions to alter or amend a judgment under Rule 59(e), the United States Court of Appeals for the Fourth Circuit has stated:

A district court has the discretion to grant a Rule 59(e) motion only in very narrow circumstances: “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or to prevent manifest injustice.”

Hill v. Braxton, 277 F.3d 701, 708 (4th Cir. 2002) (quoting Collison v. Int'l Chem. Workers Union, 34 F.3d 233, 236 (4th Cir. 1994)). Furthermore, “Rule 59(e) motions may not be used to make arguments that could have been made before the judgment was entered.” Id. Indeed, the circumstances under which a Rule 59(e) motion may be granted are so limited that “[c]ommentators observe ‘because of the narrow purposes for which they are intended, Rule

59(e) motions typically are denied.”” Woodrum v. Thomas Mem'l Hosp. Found., Inc., 186 F.R.D. 350, 351 (S.D. W. Va. 1999) (quoting 11 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, FEDERAL PRACTICE AND PROCEDURE § 2810.1 (2d ed. 1995)).

Petitioner seeks alteration of the Court’s prior judgment denying and dismissing Petitioner’s § 2255 motion. (Doc. No. 3). The Court will deny Petitioner’s motion to alter or amend as well as Petitioner’s motion for an evidentiary hearing. In its prior Order, this Court dismissed the § 2255 motion after an initial review, finding that Petitioner is a state court prisoner and that Petitioner’s separate § 2254 petition is pending before this Court. (Id. at 2). Petitioner has simply not shown that an alteration of the Court’s prior Order is warranted or that he is entitled to an evidentiary hearing.

IT IS, THEREFORE, ORDERED that Petitioner’s Motion for Reconsideration and Motion for Evidentiary Hearing, (Doc. No. 5), is **DENIED**.

Signed: May 24, 2012



Robert J. Conrad, Jr.
Chief United States District Judge
